

NO. PD-0005-18

IN THE
COURT OF CRIMINAL APPEALS

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COURT OF CRIMINAL APPEALS
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FOR THE STATE OF TEXAS

MARGARET FAYE LITCHFILED

APPELLANT

VS.

THE STATE OF TEXAS

APPELLEE

APPELLANT'S PETITION FOR

DISCRETIONARY REVIEW

On Petition for Discretionary Review
From the Court of Appeals,
Sixth District of Texas at Texarkana,
In Cause No. 06-17-00007-CR, Affirming the Conviction
In Cause No. 15-22720 from the
52nd Judicial District Court of Coryell County, Texas

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STATEMENT OF PROCEDURAL HISTORY

Notice of appeal was filed on November 22, 2016. Appellate counsel substituted for trial counsel by order of the 52nd District Court of Coryell County, Texas on December 20, 2016. The appeal was transferred from the Tenth Court of Appeals in Waco to the Sixth Court of Appeals in Texarkana. On November 30, 2017, in an unpublished opinion, the Sixth Court of Appeals affirmed Appellant's conviction for murder. No motion for rehearing was filed by Appellant. After an extension was granted, the Petition for Discretionary Review is due on or before February 1, 2018.

GROUND FOR REVIEW

In finding the evidence legally sufficient, did the Sixth Court of Appeals fail to consider: was the jury rationally justified in finding guilt beyond a reasonable doubt?

ARGUMENT

Review should be granted under Rule 66.3(b) because the Sixth Court of Appeals did not consider the teaching

of *Brooks v. State*, 323 S.W.3d 893,902 (Tex. Crim. App. 2010) which, in overruling factual sufficiency of evidence portrayed in *Clewis v. State*, 922 S.W.2d 126 (Tex. Crim. App. 1996), left a means for appellate courts to considered what amounts to a factual sufficiency of the evidence. That window of opportunity for factual sufficiency of the evidence is characterized thusly: "Considering all of the evidence in the light most favorable to the verdict, was a jury rationally justified in finding guilt beyond a reasonable doubt." *Brooks v. State*, 323 S.W.3d 893, 902 (Tex. Crim. App. 2010)

The Sixth Court of Appeals based the finding of sufficient evidence on 1. Financial motive, the asking to have credit card bills held by the Postal Service Worker. (Slip op. 21) The request to delay the meeting to get a loan for a boat one day while Appellant explained her credit report. (Slip op. 22) 2. Delay in reporting the insurance policy on Mr. Litchfield, explained by a witness who told Appellant about the possible insurance on a Penny's credit card. (Slip 23) 3. The

inconsistencies in Appellant's statements at the time of Mr. Litchfield's death until the more current statements is explained by the approximately 15 years from the death of Mr. Litchfield until the 2014 statements made by Appellant. (Slip op. 26) The time of death was never firmly established by two pathologists. (Slip 25)

PRAYER

Appellant prays this Petition be granted, the factual sufficiency under Brooks be applied and her conviction reversed and either an acquittal be ordered or the cause remanded for a new trial; and for any other relief to which Appellant may be entitled.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the length limitations of Texas Rule of Appellate Procedure 9.4(i)(3) because this brief contains 295 words, excluding the parts of the brief exempted by Texas Rule of Appellate Procedure 9.4(i)(1); a number which is less than the 4,500 words allowed under Rule 9.4(i)(2)(D).

I also certify that this brief complies with the typeface requirements of Texas Rule of Appellate Procedure 9.4€ because this brief has been written with a conventional typeface using a 14-point font (with footnotes no smaller than 12-points) using Microsoft Office Word 2010 (version 14), in Courier New font.

/s/James H. Kreimeyer
JAMES H. KREIMEYER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Petition for Discretionary Review was emailed to Dusty Boyd, District Attorney, on the 23rd day of January 2018.

/s/James H. Kreimeyer
JAMES H. KREIMEYER
ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Petition for Discretionary Review was sent by U.S. Mail to Lisa C. McMinn, State Prosecuting Attorney, P.O. Box 13046, Austin, TX 78711-3046 on the 23rd day of January 2018.

/s/James H. Kreimeyer
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ATTORNEY FOR APPELLANT

APPENDIX



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-17-00007-CR

MARGARET FAYE LITCHFIELD, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 52nd District Court
Coryell County, Texas
Trial Court No. 15-22720

Before Morriss, C.J., Moseley and Burgess, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

The bloody and lifeless body of Raymond Litchfield was found in his Copperas County¹ home in 1999. In an attempt to find his murderer, investigators interviewed his widow, Margaret Faye Litchfield, along with family, friends, and neighbors. Due to the initial lack of evidence pointing to a particular person as perpetrator, the investigation of Raymond's death was declared a cold case. Eighteen years later, a Coryell County jury concluded that Margaret was, not a grieving widow, but instead, a killer and found her guilty of murdering Raymond with a deadly weapon. The trial court sentenced Margaret to sixty years' imprisonment.

In a single issue on appeal, Margaret argues that the evidence against her was premised on "suspicion, speculation, and guessing" and was, thus, legally insufficient to support the jury's verdict of guilt. A detailed review of this record reveals some testimony that may indeed be speculative. Nevertheless, recognizing that we are not the thirteenth juror, we find the evidence legally sufficient to support the jury's decision of guilt, when the evidence is viewed in a light most favorable to the verdict.

On the other hand, although the State did not assert any enhancement allegations, the trial court's judgment mistakenly recited that it found an enhancement allegation true. Thus, we must modify the trial court's judgment to delete the enhancement-allegation finding. We affirm the trial court's judgment, as modified.

¹Originally appealed to the Tenth Court of Appeals in Waco, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. *See* TEX. GOV'T CODE ANN. § 73.001 (West 2013). We follow the precedent of the Tenth Court of Appeals in deciding this case. *See* TEX. R. APP. P. 41.3.

Standard of Review

In evaluating the legal sufficiency of the evidence, we review all the evidence in the light most favorable to the trial court's judgment to determine whether any rational jury could have found the essential elements of the offense beyond a reasonable doubt. *Brooks v. State*, 323 S.W.3d 893, 912 (Tex. Crim. App. 2010) (plurality op.) (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). We examine legal sufficiency under the direction of the *Brooks* opinion, while giving deference to the responsibility of the jury "to fairly resolve conflicts in testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007) (citing *Jackson*, 443 U.S. at 318–19); *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007).

Legal sufficiency of the evidence is measured by the elements of the offense as defined by a hypothetically correct jury charge. *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997). The hypothetically correct jury charge is "one that accurately sets out the law, is authorized by the indictment, does not unnecessarily increase the State's burden of proof or unnecessarily restrict the State's theories of liability, and adequately describes the particular offense for which the defendant was tried." *Id.*

The State's indictment alleged that, on or about January 29, 1999, Margaret intentionally or knowingly caused Raymond's death by shooting him with a firearm, a deadly weapon. Here, the challenged element of proof is the identity of the killer.

The Initial Evidence

Margaret and Raymond dated ten years before they were married. According to friends and family, they were the best of friends who loved each other. Four years into their marriage, on January 29, 1999, Margaret reportedly came home on a rainy, Friday afternoon after running errands to find her husband murdered in the home they had recently built together. Margaret dropped the groceries she was carrying and made a frantic call to 9-1-1 at 1:52 p.m. In a hysterical tone, she told the dispatcher that Raymond was lying naked on the kitchen floor covered in blood. She added that Raymond had “gone cold” and asked rhetorically, “Why would somebody do this?” The dispatcher reassured Margaret that help was on the way and instructed her to wait outside.

Paramedics, including Carla Armstrong Polidoro, were the first to arrive at the Litchfield home and moved Raymond’s body in an attempt to treat him before the police arrived. In doing so, Polidoro saw that Raymond was shot and testified that he had been deceased for “quite some time” because he “was stiff as a rock.” Based on her experience, she estimated that the shooting and the time of his death occurred around 8:00 or 9:00 a.m. Because no medical intervention could assist Raymond, paramedics placed a bandage on a wound on his right rib cage to prevent him from “leak[ing] any more blood on the tile floor.” By this time, Ricky Helms, an investigator with the Coryell County Sheriff’s Office at the time, arrived at the Litchfield home and concurred that “there was some stiffness” in the body and that nothing could be done to save him. He turned his attention to investigating the bloody murder scene.

Helms testified that Deputy Kermit Yoho had interviewed Margaret, who told police that she had left the residence at 6:30 a.m. that morning because she was hired to clean a home.

Polidoro also testified that Margaret said she had left for work at 6:30 a.m., while Raymond was still in bed. Helms described Margaret as emotional. Yet, Polidoro, who had not previously met Margaret, described her demeanor as “[r]ole playing.” She added, “[H]er behavior was not . . . typical with a grieving person that I dealt with for many years, the behavior was just off, my gut told me something wasn’t quite right . . . like watching her, watching the whole place, it was like practice.”

According to Helms, a canvas of the home revealed no effort by anyone to clean the scene or to clean the person of the murderer. After noticing that Margaret bore no signs of a struggle, had no blood on her clothes, and possessed nothing unusual in her purse, Margaret was asked to remain away from the home until the murder investigation was concluded. Hilda Ness, Margaret’s former daughter-in-law, arrived at the scene and found Margaret “uncontrollably upset.” Ness testified that she took Margaret to her home and that Margaret stayed with her family for quite some time after the murder.

The 1999 Investigation

With Margaret removed from the scene, a detailed investigation began. Helms called Stephen May, who had left the Copperas Cove Police Department for employment with the Coryell County Attorney’s Office, to assist in the investigation by taking the crime scene photographs. In doing so, May located evidence that Raymond had been shot in the bedroom, including shell casings in different places in the bedroom, bullet holes in the mattress, bedding, and carpet, and blood spatter on the fitted sheet. Another bullet was found in the only door in the bedroom, which led to the hallway. May testified that the varied placement of the bullets and shell casings showed

that the shooter fired from multiple locations within the bedroom. Although there was not a lot of blood in the bedroom, May photographed what he described as a “blood trail leading into the kitchen,” where Raymond’s body was found.

In the hallway, May photographed blood spatter on the floors and walls, “blood smears” on the hallway tiles, and sheetrock that had been damaged close to where Raymond had fallen. In the kitchen, May examined Raymond’s body and noticed there was stippling around one of the wounds, which indicated a closer-range shot. May also photographed an unlocked gun cabinet in the bedroom that was full of rifles and ammunition. Helms testified that investigators did not test any of the guns in the cabinet to determine if they were the murder weapon because the placement of the shell casings suggested they came from a semi-automatic handgun. No handgun was found at the scene.

Texas Ranger John Aycock was also called to assist in the investigation. He testified that he saw no signs of defense on Raymond’s part at the scene. He noticed that Margaret’s tennis shoes, which she had removed before entering the home, contained a red spot on the toe. The shoes were tested for the presence of blood, but test results revealed no biological material that could assist in the investigation.

In an attempt to find more evidence to identify the shooter, Helms secured the assistance of a crime laboratory, which advised him to apply certain chemicals to the floors that could reveal the existence of the perpetrator’s footprints. Because the chemical application could damage the floors of the three-year-old home, Helms called Margaret to obtain permission to proceed. Margaret readily gave permission, and the chemical application revealed the existence of one

footprint near Raymond's body. Eventually, testing would reveal that the footprint belonged to one of the paramedics.

After processing the scene, officers turned to canvassing neighbors for potential clues. Helms testified that neighbor Sherry Shirley heard gunshots on the day of the murder between noon and 12:45. According to Helms' report, Shirley heard a total of five gunshots with the "[s]ame amount of pauses between" each one. When Shirley opened her door and heard another shot, "it sounded as if [the shots] were coming from the direction of the Litchfields' house."

Helms also interviewed the Millers, who had moved across the street from the Litchfields approximately a week and a half before the murder. Steve Miller testified that he noticed that the Litchfields' motorized gate was open when he left for work at 6:00 a.m. Renea Miller, who had seen one of the Litchfields' dogs loose earlier that morning, noted that the Litchfields' metal gate was closed when she left the house at approximately 11:30 a.m. Steve testified that he heard gunshots after his friend, who was driving a green pickup truck,² dropped him home before noon.³ Steve went to the window and looked at the Litchfield gate. He testified that the Litchfield dogs were standing in the driveway, but were not barking. Steve noticed that the front door was open and added that he had not noticed their front door open before. After a few seconds, Steve heard two more gunshots. He told Helms that he did not see anyone enter or exit the Litchfield home and that he noticed that only Raymond's car was parked in the carport. Steve heard a final shot and told Helms "that's when he couldn't see the dogs anymore." Although Steve could not

²Opal Lawson, Raymond's mother and neighbor, had expressed her concern about seeing an unfamiliar green car in the neighborhood that day.

³Renea testified that she did not hear any shots fired since she was not home after 11:30 a.m.

decipher what direction the gunshots came from, he specifically described them as the distinct “pop” of a .22 caliber weapon.⁴

Helms recalled that Margaret had previously told Yoho that Raymond owned a .22 caliber Ruger Mark One pistol, which was never recovered.⁵ To see if the murder could have occurred in the noon time frame, and to confirm the possibility of the murder weapon firing .22 caliber bullets, officers turned to evidence from Raymond’s autopsy, which was performed by Joseph Guileyardo, a forensic pathologist and director of the autopsy department at Baylor University Medical Center. Guileyardo found gunshot wounds in Raymond’s chest, flank, and behind the right shoulder. The wounds to the chest and flank contained stippling consistent with medium range shots. Guileyardo recovered bullets from Raymond’s body, which would eventually be sent to the Southwestern Institute of Forensic Sciences (SWIFS) in Dallas for testing. He also took note of sheetrock dust located on Raymond’s heel. Guileyardo then focused on evidence that could shed more light on Raymond’s time of death.

Guileyardo explained the concepts of rigor mortis, the stiffening of the body, and livor mortis, the pooling of blood in the body after the heart stops pumping. According to Guileyardo, although Raymond’s body showed signs of rigor mortis, many factors could impact the speed of rigor mortis, and an accurate time of death could not be determined even if all of the factors were known. Guileyardo testified that scientific literature indicated that rigor is typically complete after

⁴At trial, Steve testified that he was incarcerated in the Illinois Department of Corrections for the murder of his wife. Steve testified that he shot his wife with a .380 gun.

⁵Margaret told Helms that Raymond usually kept the gun either in his truck or on the bedroom nightstand. No weapons were found in either location.

six to eight hours, but noted, “[T]here are cases of quick rigidity that do affect the whole body.” Guileyardo said that livor mortis becomes fixed in tissue when blood no longer redistributes when the body is moved.⁶ He testified that fixed rigor and livor mortis only indicate that a person has been dead for a few hours and that there is “no real precise determination of how long that takes.” Guileyardo added, “At the low end of that range, [livor mortis] . . . may not take several hours.” Accordingly, Guileyardo advised investigators that the time of death could be anywhere between two and twelve hours before the body was found.

Robert Poole, a forensic scientist who retired from the SWIFS, examined the bullets retrieved from Guileyardo’s autopsy. Poole testified that he found markings on the bullets that

⁶Guileyardo explained the progression of livor mortis as follows:

A. Another thing that happens after death is that the blood will start to settle by gravity, and it’ll go to the lowest part of the body. So if you’re on your back and you’re lying there, after you -- after death the blood will start to pool and the skin of the back -- and you’ll see it. It’ll start to become purple. And it’ll move away from the upper part of the body towards the back.

Q. When the blood pools in that way, at some point -- at some point does it become fixed and stay in the body at that same location if it is -- if the body is moved later?

A. Right. At some point the blood can pool, but if you -- let’s say it moves to the back and it’s purple. If you move the body to the front in a fairly short amount of time then blood will move back to the other side. But after a certain period of time, several hours, it becomes fixed. It stains the tissue and the blood cells breakdown. Then even if you move the body[,] it will stay where it was at the beginning. So if somebody has blood pooling in their back and you wait usually a number of hours and then roll the body over[,] then it’ll stay in the back. It won’t move towards the front because it’s staying in the tissue at that point.

....

Q. You did say though that livor mortis becomes, I’m quoting, fixed after several hours?

A. Well, it is fixed after several hours but I didn’t say that. At the low end of that range, it may not take several hours.

were similar, indicating they were fired from the same type of weapon, but could not confirm whether they were fired from the same gun because there were twenty-three different brands of weapons, including the Ruger Mark One pistol, which could have fired the PMC brand .22 caliber bullets. Poole, who was provided with other evidence gathered by officers at the home, noticed that there were other types of PMC brand ammunition in the Litchfield home.

Margaret's 1999 Statements to Police

Due to the possibility that Raymond may have been shot with his own weapon, Helms brought Margaret in for questioning on the day after the murder. Helms testified that Margaret appeared tired and emotional during the hour-long, unrecorded interview. By way of background, Margaret said that she cleaned houses for a living and assisted Raymond in their construction business. She explained that Raymond used to remodel homes, but had ventured into building and selling duplexes. She told Helms that their financial situation had been rough in the past, but that they were doing better since the duplexes were selling. Margaret then explained in detail her whereabouts on the day of the murder.

Margaret was scheduled to clean the home of Amanda and Dell Wood. According to Helms, Margaret said that her girlfriend, Linda Hammack, called her at 5:00 a.m. to warn her about rain and a possibly rising creek, which would be on her route to the Woods' home. Margaret told Helms that the call woke Raymond who joined her for coffee in the kitchen. According to Margaret, Raymond decided not to go to his construction site in the rainy weather and she understood that he would be going back to bed. She told Helms that she left the home at 6:30 a.m. and kept the gate open because she believed Raymond's construction workers would come over,

as they had before, to play dominoes since they could not work in the rain.⁷ She added that they did not usually lock the house.

From her home at 757 Lawson Lane in Copperas Cove, Texas, Margaret travelled via Farm to Market Road 2657 to the Woods' home at 2299 County Road 224 East in Kempner, Texas.⁸ Margaret said that the Woods, who were normally out of town, were home that day and asked her inside for coffee. Margaret drank coffee with them and left without cleaning the home, with an understanding that she would return in a few days to clean. From the Woods' home, Margaret told Helms that she went to Hammack's house for a visit. After the visit, at around 10:00 a.m., she drove to Benny Boyd's Dodge dealership in Lampasas, Texas, to get her brakes checked. Margaret then said that she drove back to Copperas Cove and went to Chess' Restaurant, an unofficial gathering place for contractors and construction workers, where she often went to lunch.

Margaret testified that, at approximately 11:00 a.m., she called Raymond to let him know she was on her way to Chess' because he was supposed to meet her there. Margaret told Helms that she ate lunch with Linda's husband, Bill, and a man named John Hitt. From the restaurant, she drove to the Coryell County annex to get registration tags for her truck and Raymond's truck. Registration receipts were time stamped at 11:45 and 11:47 a.m. Margaret told Helms that she then returned to Chess' to see if Raymond or Linda had shown up for lunch. After people at Chess'

⁷E.A. Hughes testified that he occasionally played dominoes at the house with Raymond, Rick Whitis, Randy Battreal, and Ross Henry.

⁸The Lampasas River intersects this route. Bryan Wyers, who was a detective with the Copperas Cove Police Department in 1999, testified it was rainy and muddy on the day of the murder.

said they had not arrived, Margaret went to the grocery store. She opened the door to her home a little before 2:00 p.m. and, on discovering Raymond's body, dropped her grocery bags on the floor.

Margaret's Statements Corroborated

After the interview, Helms collected Margaret's and Raymond's cell phones and enlisted Texas Ranger Fred Cummings to interview witnesses who could corroborate Margaret's whereabouts. Amanda Wood testified that Margaret arrived at her home at "8:00, 8:30," and came in to have coffee. Wood testified that Margaret was at their home for approximately thirty minutes. Wood said that she did not notice a difference in Margaret's demeanor. According to Cummings, his conversations with the Woods did not lead him to believe Margaret was involved in the murder. Cummings then contacted Hammack, who said that Margaret had come to visit her on the morning of the murder and that her demeanor and appearance were normal.

Cummings then went to Benny Boyd's dealership in Lampasas and confirmed that three employees saw her at approximately 10:00 a.m. Those employees, who personally knew Margaret, also said that there was nothing unusual about her. According to Cummings, one of the employees entered and drove Margaret's truck and said he did not see blood or any other signs of a murder. The dealership reported that Margaret's appointment was actually at 9:15, but that it was not unusual for her to show up late.

Cummings then confirmed that Margaret called Raymond's cell phone within the time period she had described. He noticed that Margaret voiced several messages to Raymond, first reporting that she was still in Lampasas and asking where he was, and another informing him that

she was going to get the registration tags. Cummings and Helms both testified that all of the messages on Raymond's cell phone, from Margaret and others, were normal.

Next, Cummings confirmed that Margaret had gone to Chess'. John Hitt, who knew Raymond and Margaret because they worked in the same business and often ate at Chess', reported that he was there on the day of the murder and was eating with Bill Hammack when Margaret came in and sat down. He recalled that Margaret said she was supposed to meet Raymond for lunch and that she was there for thirty to forty-five minutes and seemed to be acting in her typical manner. David Brown, a friend of the Litchfields, also testified that he saw Margaret at Chess' and that she asked the people there if they had seen Raymond. Brown did not notice any difference in Margaret's appearance or demeanor. Helms also said that people at Chess' recognized Margaret and corroborated her timeline.

Cummings did not uncover any unusual conduct or suspicious attitude by Margaret. He testified that, after conducting his investigation, he had no reason to disbelieve her. Because Margaret told police she did not know who might harm Raymond, Helms turned their attention to looking for other suspects.

Other Suspects

Helms spoke to Raymond's brother, Wayne Litchfield, who said he was suspicious of Raymond's ex-wife, Lynn Dooley. According to Wayne, Dooley was a narcotics user who had fought with Raymond several times in the past. Wayne told Helms that he thought Dooley had even tried to kill Raymond "a couple of times during those fights." Wayne further reported that Dooley had called Raymond a few months before the murder to see if he would go get a drink with

her. According to Wayne, Raymond told Dooley he was married and declined her offer to meet. Dooley's name also appeared in an interview with Raymond's friends, Randy Battreal and E.A. Hughes,⁹ who both stated they suspected Dooley's involvement in the murder while representing that Raymond and Margaret had a good relationship. However, Cummings confirmed that Dooley was working that day as a pickup and delivery driver in another town.

Margaret's son, Ronald Bryan, pointed to a man named John Kilpatrick, a building framer that worked for Raymond. According to Bryan, Raymond and Kilpatrick had an argument over payment for Kilpatrick's work on one of the duplexes, which Raymond found unsatisfactory. Bryan referred Helms to Ricky Whitis, who supposedly heard the argument.

Whitis told Helms that he believed Kilpatrick was a suspect. According to Whitis, Kilpatrick was angry with Raymond because he believed he was owed \$450.00 to \$500.00 for completed work. Whitis told Helms that Kilpatrick said someone would kill Raymond someday. Whitis said that Kilpatrick was a heavy drug user who liked to mix alcohol, methamphetamine, and other drugs. In other interviews with Helms, a brick layer for Raymond, Joe Sherman, and Hughes both corroborated the statements and suspicions Whitis had about Kilpatrick. Additionally, Whitis did not believe Margaret could have had anything to do with Raymond's murder.

⁹Hughes testified that he built the Litchfields' motorized entrance gate, which opened and closed by remote control. Hughes testified that there was another interior fence within the gate's perimeter and that the Litchfields kept the gate closed.

Kilpatrick, who said he had worked for Raymond and had been in the Litchfield home six times, explained the disagreement that Whitis, Sherman, and Hughes spoke about. According to Kilpatrick, Raymond would change plans to a construction project without offering any additional money to complete the changes, causing a problem between the two. Yet, Kilpatrick claimed that he did not fight with Raymond and always finished the job. Kilpatrick admitted that he smoked marihuana and used methamphetamine recreationally, but denied that it had an effect on his work. He claimed that he did not know anyone who would have wanted to kill Raymond. Consideration of Kilpatrick as a suspect ended when Helms and Cummings discovered that he was at work with other people who confirmed his alibi.

In his interview, Whitis had provided additional information that Raymond used marihuana, a fact confirmed by Kilpatrick and several others. In investigating this new information, Helms testified that investigator Roger Faught received a tip from a confidential informant, Danny Bob Hunt, that Raymond was involved in the dope business with a drug dealer named Chris Maldonado. Hunt told Faught that Raymond was shot three times during a time when that information had not yet been released to the public. Hunt said that Maldonado was living around Hildenburg, Texas, and that information was relayed to Helms, but Helms did not investigate Maldonado.¹⁰ He noted instead that Faught claimed Hunt was not usually considered credible. Battreal also testified that Raymond smoked marihuana and had sold it in the late seventies. However, he also said he did not know of anyone who would want to harm him.

¹⁰No other information related to Maldonado was provided at trial and neither Hunt nor Faught testified.

Cummings also spoke with another neighbor of the Litchfields, a Mr. Soltis,¹¹ who thought it possible that a hit man ordered to kill Soltis had mistakenly gone to the Litchfields' home instead. Soltis explained that he was involved in a business venture with another man which ended poorly. Soltis told Cummings that his former business partner said he was going to kill him, a threat that caused him to believe that someone who was supposed to kill him murdered Raymond instead. Cummings testified that Soltis' statements "didn't make any sense" and that he "didn't see anything else about it."¹²

Margaret's February 4, 1999, Written Statement

In order to address some of the leads gathered in their interviews, Helms and Cummings asked Margaret to return to the police station five days after her unrecorded interview to execute a written account. Margaret admitted that Raymond used marihuana, but denied that he sold drugs and denied that she knew Maldonado. Margaret also wrote that Kilpatrick was supposed to finish work for Raymond, but had not done so. According to Margaret, Raymond finished the work himself and "jumped [Kilpatrick]'s ass," but added that they "didn't have a fight or anything like that." She also knew that Dooley wanted to see Raymond, but stated she had never met or spoken with Dooley. She added that Raymond had told her Dooley once had come "after him with an axe."

Margaret next wrote about the day before the murder. Margaret said that she had placed several calls to her local bank. Her cell phone records revealed that she called six times from 11:06

¹¹Soltis' first name is not included in the record.

¹²Nine to twelve months after the murder, Larry Holms was living with Margaret. He was interviewed, but was excluded as a suspect.

a.m. to 11:17 a.m. Margaret explained that Raymond was planning to finance the purchase of a boat and had made an appointment with the loan officer January 28. Margaret said that she had made charges to a credit card that Raymond was not aware of and, on learning that the bank would pull her credit report in issuing a loan to purchase the boat, called to ask that the meeting be pushed back for one or two days so that she could speak to Raymond about the clandestine charges. Margaret's statement recited that she spoke to Raymond about the charges and that he was not upset because they could possibly purchase the boat with money borrowed from his mother.

For her written account of the day of the murder, Margaret again said she had left the home at 6:30. However, she wrote that Raymond always set his alarm clock for 5:00 a.m. and that he woke her after the alarm went off. Margaret recalled that she got out of bed to get dressed and that Raymond went back to sleep. Margaret began making coffee when Hammack called and woke Raymond again. On Margaret's suggestion, Raymond got up and drank coffee with her, but was going back to bed as she was leaving. According to the written account, Margaret went back to the bedroom to kiss Raymond goodbye before she left. Margaret left the gate open on Raymond's request because he had told her that "some guys [were] coming out." Margaret added that the only item missing from the home was Raymond's pistol and that she could not recall seeing it on the day of the murder.

Margaret's Demeanor After the Murder

After executing the written statement, Margaret moved back into the residence of Ness and Ronald Bryan, her son. Ness testified that she had always admired the relationship between Raymond and Margaret. She described them as inseparable and stated she had never witnessed

them fighting. Bryan also testified that Raymond and Margaret had a good relationship, were best friends, worked the construction business together well, and ate lunch together regularly. He recalled that Margaret was frantic and scared after the murder. Bryan said that, after the murder, Margaret was “every word in the definition of a mess, crying, upset.”

Margaret stayed with Bryan and Ness until she was ready to move back home. She returned to her house after a few weeks, but was not alone. Ness testified that she packed her bags and stayed with Margaret after the murder “day and night.” Ness testified that Margaret “was having a hard time functioning on a daily basis. She needed to be reminded to eat, to bathe.” She stayed with Margaret every day for four to six weeks to help her adjust to life without Raymond.

The 1999 Investigation Concludes

In continuing the investigation, Cummings spoke with Paul Moser, who stated that he was target shooting with a friend at 12:45 on the day of the murder. Although Moser reported shooting a .45 semi-automatic weapon, Cummings testified that it was possible for someone to conclude that a lesser caliber weapon was being fired because Moser was located half a mile to a mile away from the Litchfield home. Cummings believed that the shots heard by the Litchfields’ neighbors were the ones fired by Moser.

Johnny Burks, an officer with the Coryell County Sheriff’s Office, tried to visit with Hammack a second time. According to Burks, Hammack said she had nothing to add and did not invite him into her home.

Helms testified that he had no evidence that Raymond knew the shooter or was talking to the shooter at the time of his murder. He never found any physical evidence linking Margaret or

anyone else to the murder. Helms also testified that he never found any evidence contradicting Margaret's statements to law enforcement and added that everything Margaret told him "matched up." Helms told the jury that, when he finished his investigation, there were not enough leads to prosecute anyone. Before his retirement in 2001, Cummings testified that the murder investigation was already considered a cold case.

A 2006 Meeting with Investigators

In 2006, Margaret's sister, Faye Powell, contacted Chief Deputy Joe Blakely, II, to inform officers of new information she had received. According to Blakely's 2006 supplemental report, Raymond's brother, David Litchfield, wanted to speak with now retired Texas Ranger Jesse Ramos in an attempt to revive the investigation. Burks, Blakely, and Ramos met with Powell, David, and a family friend, Mike Harmon.

David testified that Margaret and Opal (Raymond's mother) were very close before the murder, but that Margaret no longer visited with Opal since Raymond's death. Powell said that Margaret had no interaction with either her or Opal after Raymond was killed and that Opal was heartbroken as a result.

Harmon reported that he heard a rumor that Battreal had something to do with Raymond's murder. According to Harmon, Mike Latham received a videotape from a Copperas Cove police officer, Tim Lawrence, who had since committed suicide. Harmon said that Latham claimed that the film depicted Raymond and Battreal's daughter having sex and that he showed the film to Battreal. Helms testified that, after reviewing Blakely's report, Battreal would be a person of interest. Harmon also testified that Margaret had entered into a real estate deal with Les Verries

around the time of Raymond's death, the deal fell through, and Verries had made comments before the murder that he "had blew the head off a guy." Harmon also reported that he knew that Margaret and Raymond had a fight about a boat that Raymond wanted to buy and that Margaret told Raymond about debt she had incurred that he was previously unaware of.

After following up on the leads, Ramos testified that the district attorney's office chose not to prosecute the case because law enforcement did not have enough evidence to move forward. Ramos testified that he retired in 2012 and that the investigation was again labeled a cold case.

The Investigation Reopened

In 2012, Texas Ranger Jason Bobo reopened the investigation. Bobo noted a few inconsistencies between Margaret's written statement and Helms' account of her unrecorded interview. Bobo also testified that, for the first time in the course of the investigation, he decided to review the Litchfields' financial records. After the review, Bobo opined that Margaret had a financial motive to murder her husband. After Bobo's investigation, a grand jury was convened. Margaret testified before a grand jury in 2014 and 2015, and, in Bobo's opinion, the testimony raised "serious questions."¹³ Margaret was indicted for the murder of her husband, and a trial date was set.

By the time of trial, eighteen years after the murder, critical information had been lost. Steve Sheldon, formerly a patrol deputy with the Coryell County Police Department, testified that he was dispatched to the Litchfield home on the day of the murder. Sheldon testified that the police report he had authored could not be located. Bryan Wyers, who was a detective with the

¹³The grand jury testimony was not admitted into evidence at trial.

Copperas Cove Police Department in 1999, similarly testified his report also could not be located. Burks' report was also lost. According to Burks, who was the sheriff by the time of trial, the district attorney's office had never asked him to look into why the reports had gone missing. Officers opined that perhaps a shift in computer software may have caused the deletion of reports, but Helms' initial report was still intact. Helms also testified that the physical evidence submitted to SWIFS for testing vanished, and no satisfactory explanation could be given. Nevertheless, trial continued without this critical information.

Financial Motive

With regard to the financial motive, the State called Deborah McCue, a United States Postal Service worker who delivered mail to the Litchfields. McCue testified that, three to four months before Raymond's murder, Margaret had asked her to hold a letter from a credit card company. According to McCue, Margaret came to the post office to pick up the letter after confirming that it had arrived. Margaret told McCue that "she had bought something that was expensive, and she didn't want [Raymond] to find out what the cost was."

Battreal testified that he was supposed to meet Raymond on the day of the murder because they were going to look at a boat together. When Raymond did not show up, Battreal called and left a message. He heard about the murder the following day when Harmon told him that Raymond had been killed.¹⁴

Robin Russell Patterson worked at National Bank in Copperas Cove. Over objection, Patterson, who knew the Litchfields only as customers, opined that Margaret was somewhat

¹⁴Battreal was not asked about the alleged sex tape at trial.

intimidated and uncomfortable around her husband. Patterson testified that she received a call from Margaret the day before the murder. According to Patterson, Margaret “was worried and frantic about getting to talk to the loan officer for her husband” because he was interested in purchasing a boat. Margaret explained to Patterson that she did not want the bank to pull her credit because it would reveal charges she had made that Raymond did not know about. Patterson testified that Margaret believed Raymond would be angry about the charges and wished that the meeting be pushed back one day so that she could “have a chance to explain to him what was going on before they came in and applied for the loan.” Patterson rescheduled the appointment for the following day.

Tom Creek, who was the president of National Bank, testified that Raymond was a good money manager, but had a little bit of a temper. According to Creek, Margaret was concerned about her credit and “was a little bit afraid of what [Raymond would] say or do if he was to find out that she had any other loans.” Creek testified that the Litchfields were co-signatories on the Litchfield Construction account that was maintained at the bank. The bank records established that Margaret, who was the bookkeeper of the business, had written a check to herself on December 7, 1998. The records also demonstrated that Raymond wrote a check to himself on that account. The statement period ending after Raymond’s death showed a balance on the Litchfield Construction account of \$11,760.67, but Bobo testified that the Litchfields’ joint checking account at the New First Texas Bank, which had a balance of \$210.40 on January 18, 1999, had checks returned frequently for insufficient funds.

In her February 4, 1999, written statement, Margaret wrote, “After we talked about the credit card charges, Raymond called Lisa at the bank to try and find out how much the boat was worth.” Lisa did not testify.

Bobo recalled that Margaret had also told officers that she had made a charge to Raymond’s Discover Card in the amount of around \$500.00 and that he was unaware of this charge. Margaret, who was the administratrix of Raymond’s estate, listed Discover Card charges of “\$4,200.00” in a column labeled “OUTSTANDING DEBTS (Value is Community Value).” Bobo assumed this to mean that the Discover Card balance was \$8,400.00. He also testified that Margaret said Raymond thought there were no charges on the card, which he believed meant that Margaret had made all charges on Raymond’s Discover Card. Bobo admitted that he had no records indicating that Margaret charged more than the \$500.00 she reported and could not confirm whether the remaining Discover Card charges were made by Raymond. The final accounting of Raymond’s estate demonstrated that the value of the estate was \$92,959.49.

Bobo also found suspicious Margaret’s late reporting of the existence of an insurance policy. This was explained by Ness, who testified that she uncovered the existence of the policy. Ness said that she was assisting Margaret in writing checks to pay off “a lot of bills” when she decided to investigate the possibility of another pool of money. After Margaret said there was no life insurance, Ness recalled that her mother had advised her that JCPenney credit cards were good to have because they came with life insurance. On Ness’ questioning, Margaret came forward with her JCPenney credit card, and Ness helped Margaret fill out the insurance paperwork.

On November 18, 1999, J.C. Penney Insurance Company paid Margaret \$30,007.97, which included the death benefit and interest. Ness testified that she believed Margaret got paid around \$27,000.00. Ness said that Margaret took the funds and paid off the remaining debts. Margaret had told Brown that she had received \$20,000.00 in insurance benefits. The discrepancies in the reported amounts of insurance benefits raised further questions.

Yet, neither Ness nor Brown believed Margaret had any financial motive to murder Raymond. Brown testified that Margaret needed work after Raymond's murder and that he hired her to work for his company as an asphalt roller operator. Brown promoted Margaret to office manager and testified that she did a good job handling the company books and bank account. Brown testified that he knew the Litchfields were developing property and were several hundred thousand dollars in debt. Brown testified that, after Raymond's death, he watched Margaret lose everything "she and Raymond had accumulated during their marriage." He added that she lost two pickup trucks, almost lost the home, had medically deteriorated, and was "medically retired with Social Security." Brown testified that Margaret "had everything to lose and nothing to gain" and that the murder had destroyed her completely. Ness also believed that Margaret was innocent. She explained that, before the murder, Margaret was a "fun, loving, happy, full of life lady" and had since become depressed and had "given up on life." Ness testified that Margaret had since gained weight, her hair had turned white, and her house went from its typically immaculate state to remaining a mess.

Hughes, however, who did not list Margaret as a suspect in 1999, testified that he told the grand jury that Margaret was the murderer. Hughes added that he could not prove this belief, but

that he could “feel it in [his] heart,” even though he said Margaret and Raymond had a good marriage and never raised their voices at each other. He testified that he came to his opinion when learning about the boat, saying, “I just know how Raymond’s about his money.” He explained that Raymond was a greedy, selfish person who was “close with a dollar,” but always paid his debts. Hughes added that, if someone stole from Raymond, he would be “liable to knock the hell out of [them].” He also added that he knew approximately 200 people who wanted to hurt Raymond over various disagreements, but that no one would want to kill him.¹⁵

Opportunity to Kill and Inconsistencies in Margaret’s Accounts

To further examine suspicions that Margaret was involved in Raymond’s murder, new experts were hired to reevaluate the evidence. Because the time of death in this case was critical, the Coryell County District Attorney’s Office hired Kendall Crowns, a deputy medical examiner with the Travis County medical examiner’s office, to analyze the autopsy report authored by Guileyardo, along with photographs of the crime scene. Crowns testified that full rigor occurs in six to twelve hours. Although Guileyardo had testified that the time of death could not be accurately concluded, Crowns opined that the time of death was somewhere between 2:00 a.m. and 8:00 a.m. He stated that he believed Raymond’s lividity was fixed, which suggested that he was in a final resting position for around eight to twelve hours. Crowns then testified that

¹⁵Hughes added that he did not believe Kilpatrick would murder anyone.

Raymond could have expired “roughly anywhere from 6 to 18 hours” before he was found, but that he would “put it more in the 12 time frame range, 8 to 12.”¹⁶

Crowns’ testimony caused Bobo to reexamine Margaret’s account of the day of the murder. In the 1999 written statement, Margaret said she was awakened by Raymond at 5:00 a.m. when she had previously told Helms that Hammack called and woke Raymond. According to Bobo, Margaret told the 2014 grand jury, fifteen years later, that she woke up around 6:00 or 6:30 a.m., and in 2015, said she woke up at 6:00 a.m.

Bobo recalled other inconsistencies in Margaret’s statement. Margaret had originally told Helms and Ness, who claimed that she did not hear conflicting statements from Margaret as to the events of that day, that she last saw Raymond drinking coffee at the bar. According to Brown, Margaret said she left when Raymond was at the kitchen bar smoking marihuana. According to Bobo, Margaret told the grand jury that she last saw Raymond at the kitchen bar, but that neither of them drank coffee at home. However, in her 1999 written statement, Margaret wrote that she last saw Raymond in the bedroom, where she kissed him goodbye. She had told Polidoro that she left while Raymond was in bed. Helms also testified that Margaret’s oral statement was inconsistent because she did not specify that Raymond woke her before Hammack called.

Next, Bobo testified that there was only .14 inches of rain in Lampasas, Texas, on the day of the murder, which raised questions about why Hammack would have called to warn her about a rising creek. Although the brakes on Margaret’s truck were serviced that day, both Bobo and

¹⁶Guileyardo contradicted Crowns’ testimony by explaining that fixed rigor and lividity established only that a person had been dead for a few hours and that no precise determination of time of death could have been established.

Helms testified that the route to the Woods' home would not have taken more than forty-five minutes to drive. Investigators found the unaccounted-for additional forty-five minutes highly suspicious. When Wood was questioned again, she revealed, for the first time, that she had purchased marihuana from Margaret, who came to their home not only to clean it, but to distribute the drug.

Investigators also heard from Battreal that the Litchfields' dogs approached others while barking and "were big enough to bite you good if they wanted to." Burks testified that the dogs were vicious. This caused investigators to opine that the killer must have known the dogs to have been able to enter the bedroom.

To determine whether fresh eyes could reveal new information about the crime scene, the district attorney's office hired Tom Bevel, president of Bevel, Garner & Associates, a forensic education and consulting company, to review the available reports from police officers and photographs of the crime scene in order to form an opinion about the sequence of events during the murder. Bevel opined that the shooter was standing on the side farthest from the only door leading into the hallway. He testified that the first bullet hit Raymond while he was in bed, causing him to immediately roll away towards the door "off to the edge of the bed [in] opposition from where, in [his] opinion, the shooter would have been for the first two shots." According to Bevel and Helms, the blood evidence indicated that Raymond moved down the hall slowly, collapsed on the hallway tile, pushed off of the floor in an attempt to get up, and had, at some point, hit his heel on sheetrock in the hallway while he faced towards the bedroom. Bevel testified that Raymond

then moved toward the kitchen and that there was “quite a bit of additional movement before death.”

Bevel said that all of the information provided to him still did not reveal who pulled the trigger or what weapon was used to commit the murder. Yet, he testified,

What we can say is that if the weapon is being retrieved from the table next to the bed, it would likely be somebody who would know that the weapon was there. But, again, we have to be careful. We don't know that it was retrieved contiguous to this incident or could it have been a day or a week before, we don't know. But it would appear that somebody would have knowledge of where it was kept.

Although Bevel could not conclude why Raymond hit his heel on the sheetrock, and Helms had concluded that Raymond was in the process of picking himself up off the hallway floor when he hit the sheetrock, former Texas Ranger John Aycock claimed he “saw evidence of potentially of talking to the shooter.” Aycock continued,

I put myself in his position. If I were awakened in my bedroom in my bed, somebody be shooting me and I didn't have a way to defend myself handy, I would have got out of that place quick as I could, find me something, a lamp, anything. But with him, he was backing out of the bedroom, and it didn't compute with me that he was backing out instead of running out full-bore unless he knew who was shooting him. And when I thought that process in my mind, it clicked, made sense If it be me, I would be running out of that place.

Bobo also opined that Raymond's .22 was used to kill him and believed that Margaret picked up the gun from the nightstand and shot him. He testified,

To believe that somebody would come into another man's house in the middle of the night or early morning hours, unarmed, wanting to take another man's life, hoping that he's got a firearm by the bed so you can kill him, so you pick up the firearm, you walk on the other side of the bed, the opposite side and shoot a man while he's by all indications asleep in the bed. That's -- I've worked many murders. I've never seen anything like that, ever.

It appears that Bobo had not considered the possibility that someone could have entered the home with their weapon and had simply stolen Raymond's gun.

Helms, however, testified that he did not know whether the weapon that shot Raymond was his own .22 pistol and that one would have to speculate to come to that conclusion. Guileyardo testified that the evidence could not reveal whether Raymond was talking to the shooter and that such testimony would also constitute speculation. Helms concurred that there was no evidence that Raymond was talking to the shooter.

The jury next heard from Raymond's son from a previous marriage, David Litchfield, who testified that Margaret maintained that she was unaware of who shot Raymond. However, David believed that, as he talked with her on the telephone, "it didn't seem she was that upset about it. I just assumed it was shock."

Ness testified that she was trained as a medical employee with the Texas Department of Criminal Justice, that she saw no signs of struggle on Margaret that day, and that nothing about Margaret's condition led her to believe that she had pulled the trigger.

After hearing all of the evidence, the jury returned a verdict of guilt.

Legally Sufficient Evidence Supports the Jury's Verdict

Guilt can be established based on circumstantial evidence alone. *Hooper*, 214 S.W.3d at 13. "Under the *Jackson* test, we permit juries to draw multiple reasonable inferences as long as each inference is supported by the evidence presented at trial. However, juries are not permitted to come to conclusions based on mere speculation or factually unsupported inferences or presumptions." *Id.* at 15. "[A]n inference is a conclusion reached by considering other facts and

deducing a logical consequence from them,” while “[s]peculation is mere theorizing or guessing about the possible meaning of facts and evidence presented.” *Id.* at 16. “A conclusion reached by speculation . . . is not sufficiently based on facts or evidence to support a finding beyond a reasonable doubt.” *Id.* If the evidence presented at trial raises “only a suspicion of guilt, even a strong one, then that evidence is insufficient [to convict].” *Winfrey v. State*, 323 S.W.3d 875, 882 (Tex. Crim. App. 2010). Margaret argues that speculation by Bobo and other witnesses, and the minor alleged inconsistencies in Margaret’s prior statements, cannot support a finding that the evidence is legally sufficient to establish guilt. In sum, she argues that the evidence raised only a suspicion of guilt.

In addressing this matter, we must note that the standard of review is the same for direct-evidence cases and those supported by only circumstantial evidence; circumstantial evidence is as probative as direct evidence in establishing the guilt of an actor. *Isassi v. State*, 330 S.W.3d 633, 638 (Tex. Crim. App. 2010); *Hooper*, 214 S.W.3d at 13. In determining the sufficiency of the evidence to show an appellant’s intent, and faced with a record that supports conflicting inferences, we “must presume—even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflict in favor of the prosecution, and must defer to that resolution.” *Matson v. State*, 819 S.W.2d 839, 846 (Tex. Crim. App. 1991). If the finding of guilt is warranted by the cumulative force of all of the incriminating circumstances, the evidence is legally sufficient. *Temple v. State*, 390 S.W.3d 341, 359 (Tex. Crim. App. 2013).

No witness denied the strength of Margaret’s relationship with Raymond, and everyone who knew Margaret and saw her on the day of the murder testified that there was nothing abnormal

about her. The jury was also presented with evidence of other potential perpetrators and witness testimony about the impact that Raymond's murder had on Margaret's life. They had further heard that the case was considered a cold case for many years and that police reports and other evidence had vanished before trial. Undoubtedly, this case could not have been a simple one for the jury to resolve. However, the jury's conclusion was reached by resolving conflicting testimony and making appropriate inferences allowed by the evidence.

Raymond was described as a good money manager who was "close with a dollar." Unbeknownst to him, Margaret had made an expensive purchase on his credit card and, according to McCue, had hidden those charges from Raymond by intercepting the mail. Bank records had also revealed that Margaret was writing checks to herself out of the Litchfield Construction account.

On the day before his murder, Raymond scheduled an appointment with the bank to secure financing to purchase a boat. The jury heard evidence that Margaret frantically called the bank to push back the meeting because she did not want Raymond to learn of the clandestine charges and possible impact to her credit. Margaret represented that she discussed these charges with Raymond before the murder. While her written statement indicated that Raymond was not upset, Harmon had heard that Raymond and Margaret had an argument over the purchase of the boat. Bobo testified that, while Margaret reported that their financial situation had improved in 1999, checks were regularly returned for insufficient funds before the murder.

Margaret and Raymond were alone in their home at least as the morning of the murder began. The jury heard conflicting evidence with regard to the time of death, but could have

resolved the conflict to conclude that Raymond was shot before Margaret left the house at 6:30 a.m. The evidence demonstrated that Raymond was shot with PMC brand .22 caliber bullets in the bedroom, that other PMC brand ammunition was found in the home, that the only weapon missing from the home was Raymond's .22 caliber Ruger Mark One pistol, and that Margaret knew where Raymond kept that pistol. Officers saw no sign of forced entry. Additionally, while neighbors leaving their home had earlier seen the Litchfield dogs outside of their fence before 6:30 a.m., the dogs, who were known to bark at strangers, were inside the closed gate before Renea left her home at approximately 11:30 a.m.

Margaret maintained that she had left the house at 6:30 a.m. and had gone straight to the Woods' residence. However, the jury heard evidence that the travel time to that location was no longer than forty-five minutes and that Margaret did not reach it until 8:00 a.m. After leaving the Woods' house, Margaret visited with her best friend and, in doing so, was forty-five minutes late for her appointment at Benny Boyd's. The jury heard that Hammack refused to speak with Burks when he returned to question her about Margaret. While Margaret had reported that Hammack had called her at 5:00 a.m. to report a possibly rising creek, Bobo testified that there was minimal rainfall in the area. Moreover, telephone records from Margaret's home telephone and cell phone did not show any calls answered during that time.

Witnesses testified that Margaret gave conflicting statements as to where she last saw her husband alive. One version placed Raymond at the kitchen bar, whereas another version placed him in the bed in which he was shot. In some accounts, Margaret represented that she and Raymond drank coffee that morning, but she later told the grand jury that they did not make coffee

at home. While there were conflicting reports about Margaret's demeanor after the murder, family members, who testified that Margaret visited with Opal regularly before the murder, found it odd that she had cut off contact with Raymond's family completely. The jury also heard about other inconsistent statements by Margaret in her 1999 oral statement to Helms, her February 4 written statement, and her 2014 and 2015 grand jury testimony.

When we view this evidence in a light most favorable to the verdict of guilt, we must conclude that the jury's verdict was supported by the cumulative force of all of the incriminating circumstances. Because we find the evidence legally sufficient to establish Margaret's identity as the perpetrator, we overrule her sole point of error.

The Judgment Must Be Modified

Next, we have the authority to modify the judgment to make the record speak the truth when the matter has been called to our attention by any source. TEX. R. APP. P. 43.2; *French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992); *Rhoten v. State*, 299 S.W.3d 349, 356 (Tex. App.—Texarkana 2009, no pet.). “Our authority to reform incorrect judgments is not dependent on the request of any party, nor does it turn on a question of whether a party has or has not objected in trial court; we may act sua sponte and may have a duty to do so.” *Rhoten*, 299 S.W.3d at 356 (citing *Asberry v. State*, 813 S.W.2d 526, 531 (Tex. App.—Dallas 1991, writ ref'd); see *French*, 830 S.W.2d at 609.

Because no enhancement allegations were filed by the State, Margaret did not enter a plea to any enhancement allegation. Yet, the trial court's judgment mistakenly recites that Margaret pled “not true” to an enhancement allegation and that the court found the allegation true.

Accordingly, we must modify the trial court's judgment to delete any reference to an enhancement allegation.

We affirm the trial court's judgment, as modified.

Josh R. Morriss, III
Chief Justice

Date Submitted: October 31, 2017
Date Decided: November 30, 2017

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